## UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA FLORENCE DIVISION

THE SATER DESIGN COLLECTION, INC	C.) Civil Action No.: 4:08-4101-TLW-TER
Plaintiff,	) )
-VS-	) )
	) REPORT AND RECOMMENDATION
WINGARD PROPERTIES, INC., JAMES	)
T. WINGARD, DEBORAH WINGARD,	)
RAY COVINGTON, THE LOWERY	)
GROUP, INC., ROBERT C. LOWERY,	)
STEVE SCHWARTZ, and JENNIFER	)
SCHWARTZ,	)
	)
Defendants.	)
	)

On July 20, 2009, the undersigned entered an Order (Document # 61) notifying Defendant The Lowery Group, Inc. that, as a corporation, it cannot proceed without counsel. The Order directed The Lowery Group, Inc. to "apprise the Clerk of Court whether it has obtained counsel to represent it in this civil action" within thirty days of the date of the Order. On October 26, 2009, the undersigned entered a second Order (Document # 82) giving Defendant The Lowery Group, Inc. an additional ten days to obtain counsel. In that Order, the undersigned warned that if no Notice of Appearance was filed by the deadline, "it will be recommended that default judgment be entered against The Lowery Group, Inc." To date, no notice of appearance has been filed.

As previously discussed in the Court's July 20, 2009, Order, "the provisions of 28 U.S.C. § 1654 prohibit a non-attorney individual from representing a corporation in the federal courts." <u>Batac Development Corp. v. B&R Consultants, Inc.</u>, 2000 WL 307400 (S.D.N.Y., March 23, 2000) (citing <u>Eagle Associates v. Bank of Montreal</u>, 926 F.2d 1305, 1308 (2d Cir.1991) ( Section 1654 "does not allow for unlicensed laymen to represent anyone else other than themselves . . . . Courts also have

interpreted this section to preclude a corporation from appearing through a lay representative.")).

Because The Lowery Group, Inc. has failed to obtain counsel as directed by the Court on two

occasions, it is recommended that the Answer (Document #52) filed by Robert C. Lowery on behalf

of The Lowery Group, Inc. be stricken from the record and that the Clerk of Court be directed to

make an entry of default as to The Lowery Group, Inc.

s/Thomas E. Rogers, III

Thomas E. Rogers, III

United States Magistrate Judge

March 3, 2010

Florence, South Carolina